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COMMITTEE MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
SUSTAINABILITY AND MARKET DEVELOPMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Mr. Gary Petersen

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBER ALSO PRESENT

Ms. Margo Reid Brown

Mr. Jeff Danzinger

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Ms. Debbie Balluch, Executive Assistant

Mr. Elliot Block, Staff Counsel

Ms. Catherine Cardoza, Acting Branch Manager, Office of
Local Assistance

Ms. Marshalle Graham, Staff

Mr. Jeff Hunts, Supervisor, Electronic Waste Recycling
Section

Mr. John Smith, Acting Deputy Director

Ms. Lorraine Van Kekerix, Acting Deputy Director

Mr. Govindan Viswanathan, Staff

Ms. Shirley Willd-Wagner, Branch Manager

Ms. Tabetha Willmon, Staff

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Farook Afsari, eCullet

Ms. Katherine Brandenburg, The Flanigan Law Firm

Mr. Bob Krass, City of Campbell

Mr. Bill Helms, City of Campbell

Mr. Mark Murray, Californians Against Waste

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1 PROCEEDINGS

2 CHAIRPERSON PETERSEN: Good morning, everyone.

3 Welcome to the Sustainability and Market Development

4 Committee of June 11, 2006.

5 As a courtesy, we'd like everybody to please turn

6 off their cell phones, put them on vibrate or silent mode.

7 Or if you're text messaging, we want to know the score of

8 the ball game or the joke. Sorry.

9 Anyway, Deb, could you please take the roll?

10 EXECUTIVE ASSISTANT BALLUCH: Peace?

11 COMMITTEE MEMBER PEACE: Here.

12 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

13 COMMITTEE MEMBER WIGGINS: Here.

14 EXECUTIVE ASSISTANT BALLUCH: Petersen?

15 CHAIRPERSON PETERSEN: Here.

16 Ex partes?

17 COMMITTEE MEMBER PEACE: I'm up to date.

18 COMMITTEE MEMBER WIGGINS: Up to date.

19 CHAIRPERSON PETERSEN: Up to date.

20 And I also want to welcome Member Danzinger to

21 the dais, the Committee today.

22 Announcements. Oh, yes, the Item J regarding

23 RPPC certification and enforcement process has been pulled

24 from the agenda.

25 Is there anybody in the public that would like to

1 make a comment this morning about anything that's not on
2 the agenda? No. Okay.

3 We're ready, Deputy Director's Report for
4 Diversion Planning, and Local Assistance. Lorraine.

5 ACTING DEPUTY DIRECTOR VAN KEKERIX: Thank you
6 very much, Board Member Peterson. Good morning, Board
7 members. I'm Lorraine Van Kekerix, the Acting Deputy
8 Director for the Diversion, Planning, and Local Assistance
9 Division. I have two pieces of information for you this
10 morning on our Disposal Reporting System data.

11 The revised Disposal Reporting System regulations
12 went into effect on January 1st of 2006, and additional
13 items are now required to be in the DRS reports. Some of
14 those things are a summary of total tons of beneficial
15 reuse at landfills and some landfill capacity related
16 information.

17 Our first quarter of 2006 Disposal Reporting
18 System reports from the counties are due by the 15th of
19 July. And a number of them submit them to us a little bit
20 earlier. Only one county has submitted a DRS report for
21 first quarter 2006 that included the new items that are
22 now required by regulation. So DPLA staff are preparing
23 some training materials and providing additional
24 information to counties highlighting the new data elements
25 and providing them with some model forms to assist them in

1 accurately reporting the new required data in 2006. And
2 when these regulations passed, we said at the time that
3 there would probably be a period of time where we had to
4 work with people to get the data in and get it correct.
5 So we are doing that.

6 Los Angeles County has been working to change
7 their database for DRS. They post their data on their own
8 website. They say that they will not be able to post
9 their data for the first quarter of 2006 on time because
10 their database is not yet finalized. They hope to have
11 their whole system up and all of the data for the first
12 and second quarter 2006 by the October 15th deadline when
13 the second quarter data has to go out.

14 And again, this is one of the delays in changes
15 made due to the revisions to the regulations. So we're
16 going to be working with them, but you may hear from some
17 jurisdictions who would like to get the information
18 earlier. And they are working on getting that database
19 squared away and working. So just in case you hear, they
20 are working on it.

21 And we think it's very important to get as much
22 of the Los Angeles data electronically as possible. It's
23 about 30 percent of all data submitted to the Disposal
24 Reporting System. And if we get that electronically, we
25 have much less chance of getting data entry errors. We

1 could get a hard copy from them now. But if we wait, we
2 have lesser chance of data entry errors if we have to
3 enter at all by hand up here. So that's what's happening
4 with the reports.

5 We visited landfills, transfer stations, and
6 waste-to-energy transformation plants with trucks full of
7 waste during our most recent survey week of June 8th
8 through 14th. The purpose of these visits is to determine
9 whether the facilities are asking and correctly recording
10 the jurisdiction from which the waste comes. The
11 regulations require that on the 8th through 14th of the
12 last month of each quarter facilities ask each driver with
13 a small load of uncompacted waste -- that's a load of
14 twelve cubic yards or less -- where the waste is from.
15 The number of tons disposed by each jurisdiction is
16 critical when estimating their diversion rate.

17 The staff visited 49 sites in nine counties, and
18 46 facilities asked correctly. Two facilities failed to
19 ask where the waste was from. And one other facility did
20 ask but recorded the wrong information in their data form.

21 Over time, we've had a significant improvement in
22 the number of facilities that are requesting and properly
23 recording information regarding waste origin. The
24 operators told staff that they had been looking for them
25 because they wanted to make sure that we knew they were

1 doing the right thing this time around. So our visits do
2 provide a significant incentive to the facilities to
3 comply with the requirements and not get an out of
4 compliance letter. So we had about 93 percent compliance
5 this time around. And when we started off several years
6 ago, the rate of compliance was around 70 percent. So we
7 think the program has made a difference.

8 CHAIRPERSON PETERSEN: Lorraine, one question.
9 How often do we do this?

10 ACTING DEPUTY DIRECTOR VAN KEKERIX: We go out
11 almost every quarter.

12 CHAIRPERSON PETERSEN: Oh, really. Okay. Thank
13 you.

14 ACTING DEPUTY DIRECTOR VAN KEKERIX: One of the
15 new activities within the division is the Board is
16 supporting green building efforts at the State level. And
17 Mark Leary assigned a DPLA staff person to help coordinate
18 the working green laboratory using the building. That's
19 the pyramid shape building located in West Sacramento just
20 across the river from Old Sacramento. And the current
21 tenant there is Department of General Services. It's
22 their headquarters office.

23 This building will be used as the subject for
24 expanding and initiating sustainable building practices
25 into a post-occupancy building. So it wasn't built green,

1 but we're looking to green it now.

2 Our DPLA staff member will be working at the
3 Ziggurat Building for the term of the assignment and will
4 be the Board's point person with the building
5 administration and will also be working with various staff
6 around the Board with various expertise on greening
7 buildings to combine that information with proposals by
8 DGS to incorporate improved environmental building
9 performance in the Ziggurat Building. And the DGS
10 administrators are highly motivated to rapidly identify
11 and initiate improvements. So they've already had several
12 meetings on the first steps, and they're moving along.

13 CHAIRPERSON PETERSEN: Lorraine, one question.
14 And maybe, Mark, you can help me. The person you have on
15 loan is from our staff, are they LEED certified?

16 EXECUTIVE DIRECTOR LEARY: Actually, I maybe
17 would try to help Lorraine and supplement Lorraine's
18 comments with DGS is looking to green their business
19 practices more than the building itself; their
20 procurement, their operation. Everything as simple as
21 white paper purchasing to dual sided copying, dual sided
22 printing. They're looking to develop a culture over at
23 DGS much like the culture we have here at Cal/EPA.

24 So I don't know it's so much about the building
25 as much as it is about their operations and their

1 practices and their kind of culture of their organization.
2 And the thought here was if we get our foot in the door
3 with DGS, we have the potential to link across state
4 government because I view DGS as the key to the kingdom.
5 If we can get DGS thinking green in terms of their
6 business operations, then they can affect the rest of the
7 State government with the same kind of thinking.

8 So the direct answer to your question is, no,
9 that person is not LEED certified, but I don't know that's
10 critical to what we're trying to accomplish there.

11 CHAIRPERSON PETERSEN: Also, I'd like to welcome
12 Chairwoman Margo Brown to the dais. Good morning.

13 BOARD MEMBER BROWN: Sorry I'm late.

14 CHAIRPERSON PETERSEN: That's okay.

15 Sorry, Lorraine.

16 ACTING DEPUTY DIRECTOR VAN KEKERIX: I have two
17 items to report to you on the State agencies. State
18 agency annual reports covering solid waste disposal and
19 diversion programs for 2005 are currently under staff
20 review. To date, we've received 377 of the 400 reports
21 that were required to have been submitted. And of those
22 reports that are still outstanding, 20 of those have been
23 started but not yet submitted, and nine have not yet been
24 started. So we will continue to work with non-complying
25 agencies to encourage them to get the reports in. We

1 expect to complete the review of the first group of State
2 agency annual reports by the end of the month.

3 We've also in the State agency section been
4 working on State Contract Procurement Reporting System, or
5 SCPRS State Agency Buy Recycled Campaign, or SABRC,
6 workshop. The State Agency Section worked cooperatively
7 with Department of General Services to present the SCPRS
8 SABRC integration training last month. These used to be
9 two separate programs, and there was overlap. So we've
10 rolled the two things together into a single tool.

11 The SCPRS SABRC system provides an electronic
12 reporting system for all State agencies to maximize
13 reporting efficiencies. The system went live two days
14 earlier than anticipated thanks to the work of our own
15 Information Management Branch staff. The training
16 workshops were well received, and 227 individuals
17 registered for one of the two sessions in Sacramento or
18 the session down in Los Angeles. The two Sacramento
19 workshops were audio and video broadcast on the Internet
20 with a total of 120 additional participants logging onto
21 the broadcast.

22 As a follow-up to the June trainings, State
23 Agency Program staff have been requested by several
24 agencies to come and provide on-site training, and we will
25 do that as staffing allows and take a look at priorities

1 and hitting some of the largest groups first.

2 Then we have the jurisdiction annual reports.

3 I'm pleased to report to you all 424 jurisdictions have
4 submitted their 2004 annual reports to the Board and all
5 107 jurisdictions that had a Board approved time extension
6 that went through December of 2005 have submitted their
7 final status updates.

8 Board staff has been reviewing the annual reports
9 and SB 1066 update reports in preparation for the upcoming
10 biennial reviews. Because all jurisdictions have
11 submitted the annual reports and updates and provided
12 information on diversion program implementation, staff
13 will not recommend that jurisdiction compliance orders be
14 issued by the Board due to lack of information from any
15 jurisdiction.

16 One of the options was if they didn't submit a
17 report for us to evaluate to go straight to compliance
18 order, but we won't need that. We may still have some
19 jurisdictions that end up on a compliance order after
20 thorough review, but they won't go on because they didn't
21 submit the reports.

22 And that concludes my Deputy Director's report
23 for this month. Any questions?

24 CHAIRPERSON PETERSEN: I guess not.

25 How about Item B, Lorraine.

1 ACTING DEPUTY DIRECTOR VAN KEKERIX: Item B is
2 Consideration of the Amended Nondisposal Facility Element
3 for the Unincorporated Area of Kern County. And Tabetha
4 Willmon will be making the presentation.

5 MS. WILLMON: Good morning, Committee members.

6 Kern County is amending its nondisposal facility
7 element, NDFE, to identify and describe two additional
8 facilities, the Martin Feed Incorporated Facility and the
9 Shafter-Wasco Landfill Recycling Area.

10 Martin Feed, Incorporated, will be processing
11 agriculture and food waste for animal feed, and
12 Shafter-Wasco Recycling Area will be used to divert tires,
13 white goods, scrap metals, clean loads of inert materials,
14 wood and green waste. Permits for these facilities may be
15 coming forward to the Board at a future meeting.

16 The County has submitted all required
17 documentation for the amendment, and staff therefore
18 recommends approval. A representative from the County is
19 also present to answer any questions you may have. This
20 concludes my presentation.

21 CHAIRPERSON PETERSEN: Any questions?

22 Do we have a motion?

23 COMMITTEE MEMBER PEACE: I'd like to move
24 Resolution 2006-114.

25 COMMITTEE MEMBER WIGGINS: Second.

1 CHAIRPERSON PETERSEN: Can we call the roll,
2 please?

3 EXECUTIVE ASSISTANT BALLUCH: Peace?

4 COMMITTEE MEMBER PEACE: Aye.

5 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

6 COMMITTEE MEMBER WIGGINS: Aye.

7 EXECUTIVE ASSISTANT BALLUCH: Petersen?

8 CHAIRPERSON PETERSEN: Aye.

9 We'll put that on the consent calendar.

10 Item C, Lorraine.

11 ACTING DEPUTY DIRECTOR VAN KEKERIX: Item C is
12 Consideration of the Five-Year Review Report of the
13 Countywide Integrated Waste Management Plan for the County
14 of Kern. And Tabetha Willmon will also be making this
15 presentation.

16 MS. WILLMON: Each County is required to review
17 its Countywide Integrated Waste Management Plan every five
18 years to determine if any revisions are necessary.

19 Kern County submitted the first Five-Year Review
20 Report of its Countywide Plan. The County has determined
21 that a revision is not necessary at this time. Board
22 staff evaluated the County's report and determined that
23 the required elements for the Five-Year Review have been
24 addressed.

25 Therefore, it's Board staff's recommendation that

1 the Board approve the County's assessment that no revision
2 is necessary at this time. And again, a representative is
3 here, as well as I, to help answer any questions.

4 CHAIRPERSON PETERSEN: Questions?

5 COMMITTEE MEMBER PEACE: I guess the only
6 question I have is I guess I don't understand this where
7 it says that they have to submit a report every five
8 years, but this is their first one they submitted and it
9 covers a twelve-year span.

10 MS. WILLMON: It is. I believe the report was
11 originally due in 2003. The jurisdictions -- the County
12 has to submit its Five-Year Review Report five years after
13 the Countywide Plans are approved, their Countywide
14 Integrated Waste Management Plan. And theirs was due
15 originally in 2003. They submitted it and we reviewed it.
16 So they have their next one coming up in a few years, and
17 it will cover a shorter time period.

18 But we have them -- because they were behind, we
19 didn't have them do just the first five years. We had
20 them go up as far as the information was available. So
21 they did do it through 2002.

22 COMMITTEE MEMBER PEACE: This is through 2002.
23 They have to do another one then in 2007.

24 MS. WILLMON: Yes, they will.

25 COMMITTEE MEMBER PEACE: Five years, they'll have

1 another one due next year.

2 MS. WILLMON: Yes. And it will cover 2003, 2004,
3 and then by that time we should hopefully have 2005
4 information too. It's the whole delay in our having the
5 diversion rate and some of the information effects this
6 also.

7 CHAIRPERSON PETERSEN: Any other questions? Do
8 we have a motion?

9 COMMITTEE MEMBER WIGGINS: Yes. I will move
10 adoption of Resolution 2006-115.

11 CHAIRPERSON PETERSEN: Second.
12 Deb.

13 EXECUTIVE ASSISTANT BALLUCH: Peace?

14 COMMITTEE MEMBER PEACE: Aye.

15 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

16 COMMITTEE MEMBER WIGGINS: Aye.

17 EXECUTIVE ASSISTANT BALLUCH: Petersen?

18 CHAIRPERSON PETERSEN: That's also on the consent
19 calendar.

20 Item D.

21 ACTING DEPUTY DIRECTOR VAN KEKERIX: Item D is an
22 Oral Presentation of an Overview on the Establishing New
23 Base Years. And Marshall Graham is going to be making
24 this presentation.

25 We wanted to get you some information on new base

1 years before you had to take up some new base year items.
2 They are really critical for improving measurement
3 accuracy. And Marshall is going to go over what the new
4 base year is and information on how we do it.

5 CHAIRPERSON PETERSEN: Great.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 MS. GRAHAM: Good morning. It's a pleasure to
9 provide an overview on establishing new base years. The
10 intention here is three fold. I'd like to provide some
11 background on what is a base year and how is it used in
12 determining diversion rate measurement. Also discuss some
13 of the potential accuracy issues with the base years and
14 how they are addressed. And then lastly, describe what's
15 entailed in doing such a study, not only from the
16 jurisdiction perspective, but also from Board staff's
17 perspective.

18 --o0o--

19 MS. GRAHAM: With the passage of AB 939,
20 jurisdictions were required to prepare planning documents
21 for achieving the 25 percent diversion goal in 1995 and
22 the 50 percent goal in 2000 and afterwards. These plans
23 included solid waste generation studies that quantified
24 the amounts and identified the types of solid waste that
25 was disposed and diverted for each jurisdiction in its

1 base year. Most jurisdictions chose either 1990 or 1991
2 as their base year. And in order for jurisdictions to
3 establish their base year generation, it was necessary to
4 quantify the base year diversion and disposal tonnage. If
5 you think about it in terms of an equation, generation
6 equals disposal tonnage plus diversion tonnage.

7 These solid waste generation study results not
8 only established the base year with respect to where the
9 jurisdiction was in the beginning with respect to the
10 diversion rate, but it also provided the framework for
11 jurisdictions to select and identify the appropriate
12 programs to address the targeted waste streams to meet the
13 goals.

14 --o0o--

15 MS. GRAHAM: Originally, AB 939 required
16 jurisdictions to measure the amount of solid waste
17 generated in 1995 as well as in 2000 in order to determine
18 compliance with the goals. In 1992, however, legislation
19 was passed to amend this requirement and eliminate future
20 generation measurements by establishing a standard
21 methodology for a disposal reduction measurement system,
22 which is our current goal measurement system. Each
23 jurisdiction can use this methodology to estimate and
24 quantify its waste reduction progress in its annual report
25 to the Board.

1 --o0o--

2 MS. GRAHAM: Our current measurement system, the
3 disposal reduction measurement system, is comprised of
4 four primary components. The first is base year
5 generation. The second is estimating the report year
6 generation. Also the maximum allowed disposal which, for
7 example, for the 50 percent goal is going to be 50 percent
8 generation. And then lastly, the reporting of disposal.
9 And we're going to review each one of these.

10 --o0o-

11 MS. GRAHAM: The base year generation tonnage is
12 the starting point of the disposal based measurement
13 system. The base year generation tonnage is a
14 Board-approved tonnage of all materials disposed and
15 diverted in a calendar year by jurisdiction. In this
16 example on the slide, the jurisdiction diverted 20 tons
17 through source reduction, recycling, and composting and
18 disposed of the 60 tons which totals a base year
19 generation amount of 80 tons.

20 --o0o--

21 MS. GRAHAM: In order to compare the
22 Board-approved base year with the reporting measurement
23 year, we need to account for other factors that may effect
24 the disposal tonnage. The Board approved adjustment
25 method corrects the base year generation for changes in

1 demographics as well as in the economy. The theory here
2 is if there is more money, more people, and more jobs in a
3 jurisdiction, there is going to be more disposal, even if
4 you're implementing diversion programs.

5 In this example, the measurement-based generation
6 was 80 tons. And now time has passed and the population
7 has increased. There are more jobs, more money. And the
8 adjustment method calculates an estimate of what the
9 report year or the measurement year generation is. So in
10 this example, due to these increases and the economy and
11 population, the adjusted generation is calculated to be
12 100 tons.

13 --oOo--

14 MS. GRAHAM: The next step in calculating a
15 diversion rate is to determine the disposal tonnage. The
16 Board's Statewide Disposal Reporting System tracks the
17 amount of disposal allocated to each jurisdiction.
18 Disposal tonnage for each jurisdiction is tracked and
19 collected at the solid waste disposal facilities and sent
20 to the counties and regional agencies. Each county and
21 regional agency then submits these data to us quarterly.
22 In this example, there were 55 tons reported for this
23 jurisdiction in the reporting measurement year.

24 Additionally, because as with any measurement
25 system there could be an opportunity for flaws, in each

1 jurisdiction's annual report they have an opportunity to
2 adjust their disposal tonnage for any inaccuracies. In
3 the example here, this jurisdiction again was reported
4 with 55 tons of disposal, and they adjusted in their
5 annual report for disaster waste and allocation errors,
6 leaving a total of 50 tons of disposal.

7 --o0o--

8 MS. GRAHAM: The measurement year disposal rate
9 is calculated then by dividing the measurement year
10 disposal by the estimated measurement year generation.
11 And in this example, we have 50 tons of disposal in the
12 measurement year or the reporting year and 100 tons of
13 estimated generation, leaving 50 percent disposal.

14 --o0o--

15 MS. GRAHAM: Then in order to calculate the
16 diversion rate, we take that disposal rate and subtract it
17 from 100 percent. So in the example that we're using, we
18 have then 50 percent diversion.

19 --o0o--

20 MS. GRAHAM: As we have reviewed, the diversion
21 rates for all subsequent years are calculated using the
22 base year generation amount as modified by the
23 Board-approved adjustment method. If the base year
24 tonnage is inaccurate or if there are major changes in the
25 nature of the jurisdiction's waste stream, subsequent

1 diversion rate calculations could be inaccurate.

2 To address these potential issues, in 1996 the
3 Board convened a Measurement Accuracy Issues Working
4 Group. This group worked to address inaccuracies in the
5 solid waste measurement of jurisdictions in relation to
6 the AB 939 diversion goals. Jurisdictions identified
7 flaws in their base years or their base year tonnage as a
8 major factor in their ability to meet the 50 percent goals
9 or the diversion goals in general. The types of errors
10 that they found in their original generation estimates
11 include general inaccuracies in the tonnage, and these
12 effect both disposal tonnage and diversion tonnage.

13 So when we look at disposal tonnage at the time
14 they were conducting these studies, we didn't have a
15 Statewide Disposal Measurement System. So there wasn't a
16 uniform or standard tracking system.

17 Also, a number of landfills may not have had
18 scales. So they relied on volume to weight conversions,
19 which especially for solid waste can vary greatly.
20 Additionally, although jurisdictions are required to meet
21 the goal, the businesses or the nonresidential sector is
22 not required to participate in sharing data. And at the
23 time these studies were conducted, it wasn't necessarily
24 as savvy as it is now, or they weren't necessarily
25 tracking it. And if they were, they didn't necessarily

1 want to partner with the jurisdiction to share that
2 information. Additionally, there may have been regional
3 data that was misallocated.

4 Also there may have been missing tonnage when you
5 look at disposal tonnage. If the jurisdiction only
6 collected disposal tonnage from the franchise hauler, they
7 could have inadvertently left out of the self-haul
8 disposal, which is a significant component of the waste
9 stream.

10 So that just gives you a couple of examples to
11 see that although the jurisdictions at the time really did
12 use the best available data, there were a number of
13 opportunities for inaccuracies.

14 --o0o--

15 MS. GRAHAM: In response to these potential
16 inaccuracies, at its March 1997 meeting, the Board
17 considered the Measurement Accuracy Issues Working Group's
18 recommendations and approved methods for jurisdictions to
19 use to improve the accuracy of their base year generation
20 data.

21 And these included three options. The first is
22 to correct the base year. The second would be to conduct
23 an annual generation study. And the third would be to
24 conduct a new more current base year.

25 --o0o--

1 MS. GRAHAM: When we look at base year
2 correction, the Board determined in order to correct base
3 year generation tonnage, the jurisdiction must be able to
4 diagnose the data problem and provide a specific or
5 quantify a correction using a Board-approved methodology
6 and meeting specific criteria. And these methodologies
7 and criteria were included as a part of the agenda item in
8 March of 1997.

9 The Board also determined that as time goes on
10 it's increasingly difficult for jurisdictions to make well
11 documented historical corrections to the existing base
12 year data, and even more difficult for Board staff then to
13 verify that information.

14 As a result, at its January 2000 meeting, the
15 Board adopted conditions for correcting 1990 and later
16 base years. With a couple of exceptions, the Board
17 decided no longer to allow corrections to any
18 Board-approved base year disposal or diversion tonnage
19 amount that is more than three calendar years old.

20 --o0o--

21 MS. GRAHAM: The next two options are very
22 similar. They're both the generation studies. The first
23 is an annual generation study which can be submitted to
24 the Board each year as part of the annual report process
25 to determine the diversion rate. The generation-based

1 analysis eliminates the need for a base year data as well
2 as the use of the adjustment methodology because the
3 generation tonnage is estimated as part of the study.

4 A jurisdiction may consider doing an annual
5 generation study when an unusual event occurs or more
6 detailed data is needed or when the base year is outdated.
7 They may also use this option to see if the adjustment
8 method is working for them, if it's accurate for them.
9 They may also do this if there's a significant change in
10 their waste stream. In any event, jurisdictions that use
11 this option definitely go above and beyond the
12 requirements of the law.

13 --o0o--

14 MS. GRAHAM: Similarly with a new base year
15 study, a new base year study is nearly identical to an
16 annual generation study. The difference is that a
17 jurisdiction doing a new base year study is actually
18 changing their base year. So one, the data need to be
19 representative of the typical year. And two, in addition
20 to formally changing the base year, they will be using
21 that in future years for goal measurement with the
22 adjustment methodology.

23 Also a jurisdiction can request if they've done
24 an annual generation study and they can demonstrate that
25 the data are representative, they could then ask the Board

1 to approve that as a new base year study. And you may see
2 those.

3 --o0o--

4 MS. GRAHAM: In addition to determining
5 compliance with the diversion rate calculation or the
6 diversion rate goals, I wanted to review some of the
7 benefits of doing a generation study. These studies
8 improve a jurisdiction's understanding of its waste stream
9 and enable them or facilitate their implementation of
10 diversion programs because it offers a method to evaluate
11 and monitor these programs. It also as they go out to the
12 businesses provides an opportunity to assess the needs of
13 the nonresidential sector and to collect information to
14 develop models or exemplary programs. It also provides
15 the opportunity to identify potential sources of
16 manufacturing feedstock for recycling market development
17 zone businesses.

18 The Board also has a number of tools to help
19 jurisdictions in these efforts. First, our Office of
20 Local Assistance staff are available to help jurisdictions
21 scope out their new base year design and to answer any
22 questions they have about what can count, what can't
23 count, what kind of documentation would be needed and the
24 like.

25 We also have the Board's diversion study guide

1 that outlines the benefits and the process for doing the
2 study as well as a number of resources like corporate
3 contacts, example letters, and conversion factors. We
4 also have two certification forms to help standardize the
5 reporting process. And we have a number of examples of
6 the benefits -- specific benefits of a jurisdiction doing
7 a new base year in articles such as Infocycling.

8 --o0o--

9 MS. GRAHAM: If we go back to our equation of
10 generation, one half of the calculation is disposal
11 tonnage. Jurisdictions can use the Statewide Disposal
12 Reporting System and may also adjust that tonnage if there
13 are any errors or allocation issues. And some examples
14 would be if there was a misallocation or if they had
15 disaster debris or residual disposal from a regional
16 diversion facility. But all in all, the disposal
17 component of the calculation is the easy part.

18 --o0o--

19 MS. GRAHAM: Moving on to the second half of the
20 equation, diversion, a jurisdiction will first collect the
21 diversion tonnage for the programs they implement. For
22 example, a jurisdiction will provide the amount of tons
23 diverted through their residential and commercial curbside
24 and drop-off recycling and green waste programs, buy-back
25 recycling centers, grasscycling at large turf areas,

1 government and school recycling, and the like.

2 Jurisdictions will also often collect diversion
3 tonnage from third party recycling companies known to
4 serve the community, such as shredded paper recycling at
5 pharmacies or banks, renderers, at grocery stores and
6 restaurants and nonprofit organizations.

7 Many jurisdictions also make an effort to
8 quantify the in-house waste reduction efforts of the
9 commercial sector that is not already captured through the
10 aforementioned sector -- the aforementioned franchise
11 haulers or third-party recyclers.

12 Depending on the size of the jurisdiction and the
13 scope of their study, they may attempt to document the
14 diversion activity of most or the largest businesses in
15 terms of recycling. Other jurisdictions may take a
16 sampling of their commercial sector and design a study to
17 statistically extrapolate that tonnage over the entire
18 commercial sector, and that's what we call an extrapolated
19 study.

20 --o0o--

21 MS. GRAHAM: In terms of documentation, depending
22 on the type of study conducted, jurisdictions are
23 encouraged to use one of the Board's two certification
24 forms to submit their study for review. These are model
25 reports. They're rather streamlined. They're

1 standardized and they provide very useful features like
2 auto calculating the diversion rate.

3 Basically, each data point within these
4 certification forms should be substantiated in some type
5 of source documentation. For example, if the jurisdiction
6 reports 1200 tons of curbside recycling, there should be a
7 report from the jurisdiction or from the franchised hauler
8 listing the materials and the corresponding diversion
9 tonnages. Similarly, buy back center recycling tonnages
10 are often supported by annual summary tonnage reports from
11 the recycler or the Department of Conservation Division of
12 Recycling.

13 Data from landfill salvage, drop-off programs,
14 composting, biomass, sludge diversion, and the like can
15 generally be documented from the facilities themselves or
16 from the hauler. Third-party recyclers can generally
17 provide tonnage reports by account or in an aggregate for
18 a jurisdiction. And ADC is documented in the Statewide
19 Disposal Reporting System.

20 And then lastly, the non-residential waste audits
21 are documented by the individual survey forms or notes as
22 well as source documentation provided by the individual
23 businesses. Again a lot of businesses nowadays understand
24 the effect of waste reduction on their bottom line and
25 incorporate the tracking of such data as a part of their

1 normal business practices. And when they don't, we can
2 use some other kind of documentation like weight tickets
3 or invoices.

4 --o0o--

5 MS. GRAHAM: Board staff review is two-fold.
6 Staff perform a review to ensure completeness,
7 reasonableness, and to prepare for the verification visit.

8 In terms of completeness, staff ensure that all
9 the necessary documentation has been submitted. If no
10 source documentation is provided, Board staff ensure that
11 there is sufficient information provided to demonstrate
12 that the proposed data are reasonable. For example, in
13 the case of grasscycling, we'd like to see how many
14 mowable acres, the mowing frequency, and the conversion
15 factors used.

16 Additionally, staff are basically looking at five
17 points when they review these data. What is the diversion
18 activity and how does it divert material from disposal.
19 Is the waste type normally disposed, and that basically
20 just goes back to if that waste type was never disposed of
21 in the landfill, then it doesn't get to count for
22 diversion. How is the activity quantified. How did we
23 come up with a number. What information do we have to
24 support it. And we also need to address that there's no
25 double counting of that data.

1 If the materials are restrictive to waste, which
2 there are four types: Scrap metal, inert material, ag
3 waste, and white goods, which have specific criteria for
4 them in order to be included as diversion, then we of
5 course need to ensure these criteria are met.

6 And then also if applicable, we need to ensure
7 that the tonnage is representative of a typical year.
8 This is particularly important for programs that comprise
9 a large portion of the generation or are variable. And to
10 give you an example, if the jurisdiction is reusing
11 asphalt and concrete in road projects, road projects do
12 not always happen every year. It may depend on their
13 funding. It may happen one year and not again for another
14 two years. So we make an effort to normalize the data by
15 taking a multi-year average.

16 --o0o--

17 MS. GRAHAM: In addition to reviewing the
18 generation study for completeness and reasonableness,
19 Board staff also identified the top ten generators in
20 terms of diversion. Generally, these are the businesses
21 from the non-residential waste audits, but it may also be
22 specific facilities that we aren't familiar with. That
23 includes landfill, salvage, or composting or inert
24 material recycling.

25 Board staff visit these sites to review the same

1 five points we just discussed. The purpose of this
2 verification is to ensure that the activity is valid, the
3 diversion tonnage is accurate, and preferably to obtain
4 source documentation. Based on these findings, Board
5 staff may make adjustments to the reported diversion
6 tonnage, and we would discuss those adjustments with the
7 jurisdiction, and they would be outlined for you in
8 Attachment 3 of the agenda item.

9 --o0o--

10 MS. GRAHAM: And that does take us to the agenda
11 items. When you see a new base year agenda item, it will
12 include the agenda item itself that talks about the issue,
13 the options, and our recommendation.

14 Also Attachment 1 is the diversion programs for
15 that jurisdiction. And that's really important for you to
16 see there are programs that support the number that's
17 being proposed.

18 Attachment 2 is the generation study data as was
19 proposed or reported by the jurisdiction.

20 Attachment 2B is the same form, but it represents
21 the data that Board staff is recommending. So it will
22 include any adjustments.

23 Adjustment 3 again is the verification findings.

24 And then lastly, Attachment 4 is the Resolution.

25 --o0o--

1 MS. GRAHAM: I thought I'd leave you with some
2 base year statistics. Approximately there are 210
3 jurisdictions that are still using the original or
4 corrected base year. And of those, approximately 15 do an
5 annual generation based study as a part of that annual
6 report process. And then we anticipate that there will be
7 approximately 30 new base year studies coming before you
8 here in the future. And that does conclude my
9 presentation. I'd be happy to address any questions.

10 CHAIRPERSON PETERSEN: Wow. Thanks for all the
11 info.

12 I have a question. When you correlate with the
13 Department of Conservation, let's say buy back centers and
14 you have a multi-material buy back, they're doing high
15 grade papers, you know, low grade paper, high grade
16 metals, how do you correlate, and what kind of a
17 corporation do you get from those types of recyclers? And
18 how do you correlate all that tonnage into your data?

19 MS. GRAHAM: There's two components to that. One
20 is that the CRV materials, or aluminum, glass, plastics,
21 all those types can be reported from the Division of
22 Recycling. And generally the credit for each center is
23 attributed to the jurisdiction that hosts it, even though
24 it may serve multiple jurisdictions. We have to have some
25 way of doing that, unless the county as a whole has an

1 agreed upon methodology for the jurisdiction that
2 contains. For recycling centers that accept materials
3 other than just the CRV materials, Division of Recycling
4 is not going to have that data. So we would have to get
5 it from the recycling center. And in terms of
6 cooperation, it totally depends.

7 CHAIRPERSON PETERSEN: It's all over the map.

8 MS. GRAHAM: It depends on the relationship the
9 jurisdiction has. It depends on how busy they are. It
10 could come down to personalities. It just really depends.
11 But for the most part we do find --

12 CHAIRPERSON PETERSEN: It's a significant
13 tonnage.

14 MS. GRAHAM: It can be.

15 CHAIRPERSON PETERSEN: I used to run them. I
16 know how we did that. But my question being do we take a
17 guesstimate?

18 MS. GRAHAM: No. We don't really like
19 guesstimates. We like to have some find of source
20 documentation, some kind of report. Generally that
21 recycling center is going to sell that material, so we can
22 look at weight tickets and things like that. We've
23 actually gone and looked through --

24 CHAIRPERSON PETERSEN: But there's been
25 cooperation with some of the bigger recyclers to do that?

1 MS. GRAHAM: Absolutely.

2 CHAIRPERSON PETERSEN: Great. Thank you for that
3 report. Any questions?

4 COMMITTEE MEMBER WIGGINS: What is disaster
5 waste?

6 ACTING BRANCH MANAGER CARDOZA: Disaster waste
7 could be, for example, if you had a fire or earthquake or
8 a flood or something like that and the waste was something
9 that was not normally something that you would be
10 disposing, and if it went to a particular landfill where
11 they track that, they can ask for that to be deducted if
12 it's meets a couple of criteria, like if it was formally
13 declared a disaster and if the landfill was tracking it.
14 And some landfills are set up for tracking that. They
15 have to be able to identify it comes from that event.

16 COMMITTEE MEMBER WIGGINS: So it wouldn't be
17 considered as disposal?

18 ACTING BRANCH MANAGER CARDOZA: Correct.

19 COMMITTEE MEMBER WIGGINS: Correct.

20 CHAIRPERSON PETERSEN: Any other questions?
21 Okay. Thank you all very much.

22 Lorraine, we are on Item E; correct?

23 ACTING DEPUTY DIRECTOR VAN KEKERIX: Yes. We
24 will have now Consideration of a Request to Change the
25 Base Year to 2004 for the Previously Approved Source

1 Reduction and Recycling Element for the City of the
2 Campbell in Santa Clara County. And Marshalle Graham will
3 make the presentation.

4 MS. GRAHAM: The City of Campbell has requested
5 to change its base year to 2004. The City originally
6 submitted a new base year change request with a diversion
7 rate of 52 percent.

8 As a result of staff's verification findings,
9 staff is recommending changes to the base year data that
10 will adjust the accepted base year diversion tonnage and
11 reduce to diversion rate to 49 percent. Board staff has
12 determined the information for the City's new base year is
13 adequately documented, and therefore is recommending
14 Option 2 of the agenda item: Approve the City's base year
15 change with staff and/or Board suggested modifications.

16 Bob Kass, Campbell's Public Works Director, and
17 Bill Helms, the City's Executive Project Manager, are
18 present to answer any questions. That concludes my
19 presentation.

20 CHAIRPERSON PETERSEN: Any questions?

21 COMMITTEE MEMBER WIGGINS: Yes. What are the
22 staff recommendations?

23 MS. GRAHAM: To approve the staff adjusted base
24 year tonnage which would be 49 percent diversion rate.

25 COMMITTEE MEMBER WIGGINS: Oh, so it was changed

1 to 49 percent?

2 MS. GRAHAM: Yes.

3 COMMITTEE MEMBER WIGGINS: Okay. Thanks.

4 CHAIRPERSON PETERSEN: We have a speaker's slip
5 here for Bob Kass, City of Campbell, please.

6 MR. KASS: Thank you, members of the Committee or
7 Board. Appreciate the opportunity to just make a few
8 comments. My name is Bob Kass. I'm the Public Works
9 Director for the City of Campbell, and Bill Helms from the
10 City of Campbell is also here.

11 We're in Santa Clara County, a small community of
12 about 38,000, 39,000 located adjacent to San Jose, about
13 six square miles.

14 I wanted to thank Kathy Davis in particular from
15 the staff, along with Zane Poulson and Marshalle Graham
16 for all the help they gave us in conducting this new base
17 year study. It turned out to be a very educational
18 process for us. Gave us an opportunity to connect with
19 some of the major commercial waste generators in the City
20 of Campbell, educate them about programs. And also for
21 us, an opportunity to learn some of the things they were
22 doing that we weren't aware of, such as sending off bones
23 and meat to rendering facilities that were being actively
24 done in the private sector sort of apart from the
25 franchised component of our solid waste programs.

1 One example is we have a large lumber company in
2 Campbell which receives pallets of lumber from rail and
3 trucks, and it turned out they had been disposing of all
4 the metal strapping, just throwing it away. And we were
5 able through the process to connect them up with a metal
6 recycling, a private company, and get some stuff that was
7 going to the landfill now being recycled.

8 So there was a real benefit to the process, and
9 there was a lot of guidance provided by your staff. So we
10 really appreciate that. We really were hoping to get
11 50 percent. That was sort of from our counsel's
12 standpoint and our staff's standpoint our goal, and I know
13 it's the goal of the State as well as Cal/EPA staff.

14 The little dispute was over a program of silt
15 recycling that is detailed in the staff report. We have
16 percolation ponds that are operated by the Santa Clara
17 Valley Water District, and these are water recharge
18 facilities. And historically what the water district has
19 done is come in every year and they muck out the stuff
20 from the ponds. If they find an alternative location for
21 disposing of this, construction sites, they use it there.
22 Otherwise, it ends up in the landfill.

23 We spent a lot of time going back and forth with
24 the water district to try to document what they
25 historically had disposed of, because within the last

1 couple of years they've changed their program to be sort
2 of in place drying out of the ponds. And therefore, the
3 material that historically went into the landfill is not
4 going in the landfill.

5 We tried to get credit for 4900 tons. And we
6 understand completely the way the staff evaluated it. The
7 staff was unable to give us credit for that. So that
8 brought us from 52 to 49 percent.

9 In general, we're very supportive of the staff's
10 recommendation. We were wondering whether there might be
11 a little bit of credit given for the silt material to push
12 us up to the 50 percent goal, given maybe not full credit
13 for the amount we asked for based on our analysis, but a
14 lesser amount that we could come home with the golden ring
15 from the merry-go-round. But that's all I have to say.
16 It was very positive, and staff did a fantastic job in
17 helping us. Thank you.

18 CHAIRPERSON PETERSEN: Okay. Maybe the staff can
19 help us with silt.

20 MS. GRAHAM: This kind of goes back to your
21 question about documentation. And although the City was
22 able to document adequately that they generate the silt,
23 we weren't able -- this is source reduction. Okay. When
24 we have recycling, it's a little bit easier because you
25 have a material that you can weigh and you can quantify

1 more easily. Source reduction, we try to get at the net
2 disposal reduction. In order to do that, we need to know
3 how much was disposed. And that's where we were coming
4 into a problem. We do -- there's no question about the
5 activity itself. It's just a matter of quantifying it.

6 CHAIRPERSON PETERSEN: If they documented it from
7 A to Z from now on, would that count?

8 MS. GRAHAM: Well, it's going to count in the
9 sense it's not going to be going into their disposal
10 tonnage.

11 CHAIRPERSON PETERSEN: Right. Therefore, would
12 it be diversion?

13 MS. GRAHAM: Not in the base year.

14 ACTING DEPUTY DIRECTOR VAN KEKERIX: In future
15 years, past the base year, this activity would reduce the
16 number of tons sent to disposal, and it would be
17 diversion. But in the base year, when you're determining
18 what that base should be, you need the documentation. And
19 especially because this is one of those restricted wastes,
20 you have to show that it was disposed in approximately the
21 quantity that you are claiming in order to be able to take
22 it off. And so that's a problem without the documentation
23 that it was disposed in 1990. Because that's what the
24 restricted waste said. You have to go back to 1990 and
25 show that it was disposed in that time frame.

1 CHAIRPERSON PETERSEN: I understand. Okay. So
2 in other words, Bob, maybe there's more creative ways to
3 work with the staff to make this happen when we go back to
4 calculate another base year.

5 MS. GRAHAM: A different base year. If they were
6 to establish another base year and were able to provide --
7 or even they could correct this base year. They have
8 three years. They have some time. If they can find the
9 documentation, we can come back and we can adjust.

10 CHAIRPERSON PETERSEN: I understand this. And us
11 recyclers, all of us, are very creative. And I'm sure
12 something will happen. Thank you for coming and thank you
13 very much for all that.

14 Okay. Do we have a motion?

15 COMMITTEE MEMBER WIGGINS: I'll move adoption of
16 Resolution 2006-116.

17 COMMITTEE MEMBER PEACE: Second.

18 CHAIRPERSON PETERSEN: Deb?

19 EXECUTIVE ASSISTANT BALLUCH: Peace?

20 COMMITTEE MEMBER PEACE: Aye.

21 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

22 COMMITTEE MEMBER WIGGINS: Aye.

23 EXECUTIVE ASSISTANT BALLUCH: Petersen?

24 CHAIRPERSON PETERSEN: Aye.

25 That will go on consent.

1 Item F, Lorraine.

2 ACTING DEPUTY DIRECTOR VAN KEKERIX: Item F is
3 Consideration of a Request to Change the Base Year to 2004
4 for the Previously Approved Source Reduction and Recycling
5 Element for the City of Buellton, Santa Barbara County.
6 And Marshalle Graham will make this presentation as well.

7 MS. GRAHAM: I'm on a roll.

8 CHAIRPERSON PETERSEN: Yes, you are.

9 MS. GRAHAM: The City of Buellton has requested
10 to change its base year to 2004. The City originally
11 submitted a new base year change request with a diversion
12 rate of 44 percent. As a result of staff's verification
13 findings, staff is recommending one minor change to the
14 base year data which will adjust the accepted base year
15 diversion tonnage but about not effect the diversion rate.

16 Board staff has determined that the information
17 for the City's new base year is adequately documented and
18 is therefore recommending Option 2 of the agenda item:
19 Approve the City's base year change with staff and/or
20 Board suggested modifications. Marc Bierdzinski of the
21 City of Buellton's Planning Department -- he's actually
22 the Planning Director -- is present to answer any
23 questions. And that concludes my presentation.

24 CHAIRPERSON PETERSEN: Any questions?

25 COMMITTEE MEMBER PEACE: Well, I'm just wondering

1 as you go through this process, it sounds like the City of
2 Campbell got some ideas on how to maybe increase their
3 diversion. Is that also the case here? Were they given
4 some ideas or found some ways they can increase their
5 diversion from the 44 percent to get to 50 percent and
6 beyond?

7 MS. GRAHAM: For the City of Buellton, I think
8 it's only like 1.4 square miles. And through the process
9 like the City of Campbell, they did identify diversion
10 activities that were going on in the non-residential
11 sector that they were not aware of. And they also were
12 able to partner with one of the large hotels and try to
13 implement some new programs there as well. So yes.

14 CHAIRPERSON PETERSEN: Any other questions?

15 Do I hear a motion?

16 COMMITTEE MEMBER WIGGINS: I move adoption of
17 Resolution 2006-117.

18 COMMITTEE MEMBER PEACE: Second.

19 CHAIRPERSON PETERSEN: Deb.

20 EXECUTIVE ASSISTANT BALLUCH: Peace?

21 COMMITTEE MEMBER PEACE: Aye.

22 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

23 COMMITTEE MEMBER WIGGINS: Aye.

24 EXECUTIVE ASSISTANT BALLUCH: Petersen?

25 CHAIRPERSON PETERSEN: Aye.

1 This goes on consent. And let's see.

2 Moving to Item G, Deputy Director's Report for
3 the Waste Prevention and Market Development. John.

4 ACTING DEPUTY DIRECTOR SMITH: Good morning,
5 Chair Peterson, Committee Members Peace and Wiggins. And
6 welcome Board Member Danzinger and Chair Brown. I have
7 four brief items.

8 First of all, we used this as an opportunity to
9 announce the interest rate for the RMDZ loan program. Per
10 the regulations, the Loan Program interest rate is to be
11 set semi-annually or adjusted semi-annually in January and
12 July.

13 At the January 2005 Board meeting as part of the
14 Loan Program's general Loan Program criteria, the Board
15 voted to set the interest rate equal to the prime rate,
16 provided the prime rate neither exceeded the maximum rate
17 of 5 percent nor a minimum rate of 4 percent. At that
18 time, the prime rate was 7.25, and the RMDZ rate was set
19 at 5 percent. It's a little too complicated. I'm sorry.

20 Today the prime rate is 8.25. And since there's
21 sufficient revenue to continue the current level of
22 lending as well as to administer the program, we're
23 recommending that the RMDZ loan rate remain at 5 percent,
24 and this period will cover from July through the end of
25 December 2006. Is that clear?

1 CHAIRPERSON PETERSEN: That's clear.

2 ACTING DEPUTY DIRECTOR SMITH: In fiscal year
3 05-06, the Board approved loans in the amount of 13.7
4 million. In the last fiscal year, 11 loans totaling 11.2
5 million were funded and closed. There are three loans
6 remaining now totaling 2.5 million which will be closed
7 during this fiscal year.

8 Today, the Committee will consider the first loan
9 for this fiscal year for the amount of 850,000. If this
10 loan is subsequently approved by the Board, there will
11 remain 20.2 million in the account for future loan
12 applications. This amount includes the 2.5 million
13 transfer from the Integrated Waste Management Account that
14 was transferred at the end of the last fiscal year. So
15 there's plenty of money available, and we had a great
16 year.

17 Construction of the Board sponsored Heroes High
18 Performance Demonstration School in Santa Ana began last
19 month. Staff attended a pre-construction meeting with the
20 Santa Ana Unified School District on June 14th to review
21 the requirements to achieve the construction and
22 demolition waste management goal. This project will
23 recycle at a minimum 75 percent of the C&D waste. The
24 Heroes High Performance Demonstration School will be a
25 materials showcase and is expected to be completed by

1 September 2007. If you, the Board members, would like to
2 take a virtual tour of the project, it is available online
3 at www.virtuallygreen.com/heroes.

4 The last item I have, on July 12th through the
5 14th, U.S. EPA and the Water Environmental Federation is
6 holding a symposium on management of organic residuals in
7 western states. Board Member Rosalie Mulé will be
8 speaking at the opening session July 12th. That's
9 tomorrow. This is in Sacramento.

10 In this session, panelists will be focusing on
11 the big picture and will reflect on the current and future
12 directions for managing and promoting organic residuals in
13 the western United States. For further information,
14 please contact Judy Friedman of our staff who has
15 participated on the symposium's planning committee.

16 Those conclude my comments for the Deputy
17 Director's report. If you have any questions, I'd be glad
18 to answer those.

19 CHAIRPERSON PETERSEN: Any questions?

20 COMMITTEE MEMBER PEACE: Going back to the
21 interest rate, did you say the highest we can set the
22 interest rate --

23 ACTING DEPUTY DIRECTOR SMITH: Right. When the
24 Board approved the general eligibility criteria, they
25 decided that we would set the rate at a maximum of 5

1 percent for prime and let it go no lower than 4 percent.

2 So as long as it's within that range, that's what we would
3 tag the interest rate to.

4 COMMITTEE MEMBER PEACE: So right now it's as
5 high as we can --

6 ACTING DEPUTY DIRECTOR SMITH: Right. It's at
7 8.5 percent.

8 COMMITTEE MEMBER PEACE: And we can only go to 5.
9 At what point can the Board reconsider?

10 ACTING DEPUTY DIRECTOR SMITH: The Board can
11 reconsider at any time. For example, if we felt that
12 there wasn't sufficient funds to run the program, we could
13 bring an item before you and lay out some options. But I
14 mean, the environment is really good right now. There's a
15 lot of interest in the program with a slightly lower rate,
16 and we think it's kind of good to keep it at a slightly
17 lower rate so we can bring the loans in.

18 COMMITTEE MEMBER PEACE: Thank you.

19 CHAIRPERSON PETERSEN: It's going to stimulate
20 growth in the industry here.

21 I have a question, John. Is it a minimum on the
22 75 percent for the construction debris recycling? Is that
23 what you guys have set that too?

24 ACTING DEPUTY DIRECTOR SMITH: For that school,
25 yes, a minimum 75 percent for C&D at that particular

1 Heroes school.

2 CHAIRPERSON PETERSEN: That's just one school.

3 ACTING DEPUTY DIRECTOR SMITH: That's one school.

4 CHAIRPERSON PETERSEN: Okay. How about Item H?

5 Any more questions, by the way? No. Okay.

6 ACTING DEPUTY DIRECTOR SMITH: Item H or Board
7 Item Number 7 is Consideration of the Recycling Market
8 Development Revolving Loan Program Application for
9 eCullet, Inc. The presenter today will be Govindan
10 Viswanathan of our Loan staff.

11 MR. VISWANATHAN: Good morning, Chair and Board
12 members. eCullet is requesting a loan of 850,000 to --

13 CHAIRPERSON PETERSEN: Can you speak more
14 directly into the microphone, please?

15 MR. VISWANATHAN: eCullet is requesting a loan of
16 850,000 to purchase machinery and equipment and provide
17 working capital. The proposed loan will assist eCullet in
18 establishing eCullet's first glass recycling plant in
19 Oakland within the Oakland/Berkeley RMDZ Zone. The loan
20 is projected to assist in the diversion of mixed waste
21 glass from the landfill by 90,000 tons annually and create
22 15 additional jobs.

23 eCullet proposes to take postconsumer mixed waste
24 glass from material recovery facilities. eCullet will use
25 its proprietary technology to use non-glass materials and

1 color salt to produce clear, amber, and green
2 furnace-ready feedstock for glass container manufacturers.
3 The technology is based on optical sorting of glass cullet
4 by color and air jets that produce an impulse of air and
5 thrust the glass cullet to move it into one of several
6 sorting bins.

7 eCullet is recipient of three grants from the
8 Department of Conservation. Staff from the Board's
9 Permitting and Enforcement Division has reviewed the
10 project and has reported that no solid waste permit is
11 required. Diversion, Planning, and Local Assistance
12 Division has reviewed the project and has recommended
13 material to be processed by eCullet is normally disposed
14 of in the landfill.

15 The Loan Committee approved the loan on July 6th,
16 2006. Staff recommends that the Board approve Option
17 Number 1 and adopt Resolution Number 2006-126 and approve
18 an RMDZ loan to eCullet in the amount of 850,000.

19 Mr. Farook Afsari, founder and President of eCullet, is
20 present here today to answer any questions that the
21 Committee may have regarding the agenda. Thank you.

22 CHAIRPERSON PETERSEN: Any questions?

23 COMMITTEE MEMBER WIGGINS: How far does the
24 culled glass that's furnace ready get shipped? I mean,
25 does it go out of California, into California? Does it go

1 to northern California? I'm thinking of Arcada has the
2 Fire and Light facility. But I think they do their own
3 sorting.

4 MR. VISWANATHAN: Maybe Farook can answer that.

5 MR. AFSARI: I'm Farook Afsari.

6 So there is three different potential customers
7 right here in California. One is Owens right across 880
8 where we're located in Oakland. And then there is Saint
9 Gobain that has got facilities in California and Southern
10 California. And then there's Gallo that's in Madera. So
11 anywhere of those are possible.

12 COMMITTEE MEMBER WIGGINS: Well, they sure
13 complained earlier about having --

14 MR. AFSARI: What?

15 COMMITTEE MEMBER WIGGINS: Never mind. Okay.
16 Very good. Thanks.

17 CHAIRPERSON PETERSEN: I have a couple of
18 questions. I understand using optics -- we go back to the
19 glass packaging institute days in the '70s and '80s where
20 they were messing around with optics to try to sort the
21 glasses. Never got -- they spent millions on this and
22 didn't get to a yes. And you guys have got an answer to
23 this now; right?

24 MR. AFSARI: Right. So you know the history on
25 this if I can just take a couple minutes. We developed --

1 I used to work at FMC Corporate Technology Center in Santa
2 Clara. And we did a lot of work in defense funding with
3 optics and cameras and had food processing businesses.
4 When defense funding went down, corporate asked to us look
5 into technologies that we can commercialize. This is
6 on -- we came up four different ones. This is one of
7 them.

8 At that time as it is today, the bottle companies
9 have a choice either taking raw material out of earth or
10 using recycled glass. If they use recycled glass, they
11 save about 15 percent in energy cost, and the furnaces
12 last about ten percent longer.

13 CHAIRPERSON PETERSEN: And they cut down on air
14 emissions big time.

15 MR. AFSARI: Yes. So they are very, very good to
16 get glass, but there's not enough glass. So when FMC
17 completed the concept development of the technology, we
18 filed for and got a patent on it. And ultimately they
19 chose not to get in the business of setting up facilities,
20 because FMC had a competing business that sold solar ash
21 for raw material. And then when they were closing the
22 division down and they sold the group, the division -- I
23 chose not to work in defense and I bought the rights of
24 the technology.

25 And then over the last four years, I developed

1 three more patents on it, with a total of about 100
2 claims. And I built a pilot system that actually sorts
3 material, a small one, one-foot belt width. And then I
4 applied and got the first grant to take the technology
5 into production. That has now been completed. And we
6 developed it with -- I have staff that have worked for R&D
7 center and I've been working with Stanford. So we have
8 now a production system that's running that's using optics
9 and sorting glass. And I can get into the --

10 CHAIRPERSON PETERSEN: So you use optics, air
11 jets, and any other kind of --

12 MR. AFSARI: No. It's a non-intrusive
13 technology. So we look at it with a camera and pick up
14 the image and we process the image and look at the
15 difference in the colors and look at the edges of the
16 glass. And then we use air jets to --

17 CHAIRPERSON PETERSEN: Well, congratulations.
18 Building businesses and building infrastructure is what we
19 want to do in the state. Bravo to you. Nice going,
20 staff. We want to come see your plant.

21 MR. AFSARI: Any time.

22 CHAIRPERSON PETERSEN: We're going to come over.

23 MR. AFSARI: You can see the pilot in Folsom or
24 wait until September to see the plant in Oakland.

25 CHAIRPERSON PETERSEN: We're coming over to see

1 you. Grand.

2 Do I hear a motion -- or any other questions on
3 this?

4 COMMITTEE MEMBER PEACE: I'd like to move
5 Resolution 2006-126.

6 COMMITTEE MEMBER WIGGINS: Second.

7 CHAIRPERSON PETERSEN: Deb.

8 EXECUTIVE ASSISTANT BALLUCH: Peace?

9 COMMITTEE MEMBER PEACE: Aye.

10 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

11 COMMITTEE MEMBER WIGGINS: Aye.

12 EXECUTIVE ASSISTANT BALLUCH: Petersen?

13 CHAIRPERSON PETERSEN: Aye.

14 And this goes on fiscal consent. And thank you
15 all very much. Great job.

16 Now as we segue into this, I want to address a
17 comment to citizen Bob Conheim who's listening in. We're
18 going to assure Bob we're not going to mess this up, Item
19 I. And we're going to have some fun with this. We
20 promised him. So Bob, I know you're listening, and we
21 want you to keep going and get better. And we enjoyed the
22 stroll we look down to the vineyards that are down below
23 his house. Anyway, we're going to move into this item.
24 And here we go. And thanks for listening, Bob.

25 ACTING DEPUTY DIRECTOR SMITH: Item E is

1 Consideration of Adoption of the Proposed Regulations for
2 Implementation of the Electronic Waste Recycling Act of
3 2003. Shirley Willd-Wagner and Jeff Hunts will be
4 presenting the item.

5 BRANCH MANAGER WILLD-WAGNER: Good morning,
6 Committee and Board members. And boy, it bolsters my
7 feelings to have Bob listening in after all we've been
8 through with him. Hi, Bob. Good morning, and thanks for
9 being there.

10 Today is really exciting to be here. It
11 represents a milestone for our program and the whole
12 implementation of Electronic Waste Recycling Act. It's a
13 milestone, but certainly isn't the finish point, the
14 finishing line I want to emphasize.

15 We're asking for your approval today to send the
16 permanent regs to the Board and to send them to the Office
17 of Administrative Law for adoption of our permanent
18 regulations.

19 As you know, we've been operating under emergency
20 regulations, and we've got kind of a history of adopting
21 the emergency regulations. We first did so in April of
22 2004 under the osmosis of Senate Bill 20 by Byron Sher.
23 That set a July 1st, 2004, go date for the whole program
24 to start off. Then a couple of changes to legislation
25 happened, especially Senate Bill 50, which made

1 significant changes and set the go date as January of '05.
2 Then we repealed and readopted a full set of emergency
3 regulations in December of 2004.

4 So then this year, late last August/September, we
5 started on the permanent regulation process development.
6 As you know, we held some stakeholder workshops. And at
7 your direction, we made some tweaks to the emergency
8 regulations identifying some urgent issues, and we made
9 those changes sooner rather than later. So we adopted
10 those changes in December of last year.

11 And now here's the real thing, I guess, the
12 permanent regulations that we're bringing forward. We did
13 bring them last month. The 45-day comment period was held
14 in May and ended on May 8th as you know. And we had at
15 your direction an additional 15-day comment period that
16 ended a week ago, June 23rd.

17 As I said, we're really trying to see this as a
18 milestone. We're still recognizing that we're a new and
19 evolving program. We have every desire to continue to
20 improve the program, continue to improve efficiencies.
21 And as we go, we're going to continue to be informed,
22 especially by a lot of groups, certainly our stakeholders
23 and manufacturers, the recyclers, the collectors,
24 understanding more about business operations and systems.

25 Also by our work with Department of Toxic

1 Substances Control who's been a hand-in-hand partner in
2 this entire implementation. We're getting into detailed
3 discussions now about enforcement roles and
4 responsibilities of the various agencies. So that will
5 continue to inform us as far as moving forward. We're
6 working with the Department of Finance Auditors in looking
7 at our financial systems and accounting requirements. And
8 we're going to continue to work with them.

9 And increasingly, we're going to continue to work
10 with, learn from, and be informed by our counterparts over
11 the country. We've got several other states that have
12 either passed legislation or are looking to pass
13 legislation. And we're going to be able to share some
14 tips and learn some implementation tips from each other,
15 specifically just as a good example, a list of
16 manufacturers we have on our manufacturer reporting
17 requirements, we're only maybe getting about 63 or 64
18 manufacturers. Well, in Maine and Maryland, manufacturers
19 have to actually register with the State in order to
20 participate in order to sell their products in the state.
21 They have about 200 registered manufacturers. So we're
22 going to share our lists, you know, combine, try to find
23 out if those devices are being sold in California.

24 Just like to report that we've got some new
25 energy I think now on the team. We've seen this as an

1 accomplishment of a milestone. We've been energized I
2 think as a staff here. As you know, we've lost three
3 staff over the last few months, but very happy to report
4 this week and last week we hired three new staff. They're
5 in, bringing new energy and new ideas. It makes all of us
6 get excited again and look forward to the next steps of
7 program implementation.

8 We're looking at trying to move beyond, looking
9 at evaluating our programs, and moving forward as we get
10 past this regulatory step.

11 So today we are asking for your approval and to
12 set this forward to the Board. Jeff Hunts will go over
13 the specifics of our proposal. Thanks.

14 SUPERVISOR HUNTS: Thank you, Shirley. Good
15 morning, Chair Petersen, Committee Members, Board Members,
16 Bob.

17 As directed at last Committee meeting, the Waste
18 Board's Covered Electronic Waste Recycling Program made
19 available for public comment several revisions to the
20 proposed permanent regulations governing certain
21 provisions of the Electronic Waste Recycling Act. These
22 revisions were made as a result of comments received
23 during the initial 45-day comment period and after a
24 public hearing held after the formal notice of the
25 proposed regulations.

1 The subject of the proposed revisions included a
2 modified definition of a California source, clarification
3 associated with the standard recovery payment rate, a
4 technical correction to align a covered electronic waste
5 system application certification statement with a separate
6 provision of the proposed regulations, a requirement of
7 approved recyclers to provide covered electronic waste
8 disposition status information to an approved collector
9 upon request, and elimination of a requirement to report
10 on the status of recovery payments as part of recycling
11 payment claims.

12 Staff provided the revised text through the
13 Board's rulemaking website and alerted stakeholders
14 through an electronic newsletter that's broadly
15 distributed. Interested parties had 15 days within which
16 to submit comments on the revised portions of the proposed
17 regulations.

18 Program received comments submitted by seven
19 entities representing recyclers, ISRI, Institute of Scrap
20 Recycling Industries, Good Will, local governments, and
21 individuals.

22 A summary of the comments received during the
23 15-day comment period can be found on the first three
24 pages of Attachment 2 of the agenda item. The remaining
25 pages of that attachment are the comments that were

1 received during the initial 45-day comment period and are
2 provided there for reference.

3 I'd like to step through the 15-day comments and
4 provide a brief discussion on the each issue. Please let
5 me know along the way if you have any questions.

6 The first comment or set of comments, the first
7 two boxes on that matrix have to do with the definition of
8 a California source. And the comments generally state
9 that the revised definition is an improvement but does not
10 go far enough to accommodate covered electronic waste
11 stockpiled by handlers.

12 Well, the definition of a California source was
13 modified not to expand the intended realm of eligible
14 CEWs, but to clarify who is the eligible source of covered
15 electronic waste. As discussed at last Committee meeting,
16 SB 50 revised the definition of consumer in the PRC,
17 Public Resources Code, to better serve the Board of
18 Equalization's fee collection efforts. Inadvertently,
19 this technicality changed the eligibility of sources to be
20 consumers that actually bought a covered electronic
21 device, instead of those who simply owned a device.

22 As rightly pointed out along the way by some
23 stakeholders, that change potentially precluded the
24 recipient of a donated device, such as a computer monitor,
25 a monitor they used from being an eligible source of that

1 material when discarded. And this has now been fixed with
2 the adjustment to the definition. However, the proposed
3 definition revision was not intended to open up eligible
4 sources to be just any entity that simply found itself in
5 California with an accumulation of covered electronic
6 waste. And that's a policy discussion for another day.

7 The next comment we received, or it's just one
8 line on the matrix, has to do with the recovery payment
9 rate clarification. Specifically, does the revision
10 preclude a recycler from offering incentives to a
11 collector to attract additional covered electronic wastes.

12 Now if you'll recall, what we've done is removed
13 I guess what I would term subjective language from the
14 regulations where we say a recycler shall pay at or above
15 a recovery payment rate. We just say the recycler shall
16 pay. So the short answer to the comment is no, that the
17 revision does not preclude business, separate business.
18 It's solely intended to remove from the regulation a
19 suggestion that a recycler should or must pay more than
20 the standard recovery payment rate.

21 The next comments, the two lines on the matrix,
22 have to do with the recovery payment time frame
23 certification statement. Now, this revision was made as a
24 technicality intended to align a certification statement
25 requirement that's part of the program application process

1 with an already revised maximum payment time frame.

2 That's found elsewhere in the regulations.

3 The purpose of that previous revision was to
4 minimize the number of recyclers that slipped into
5 scofflaw status due to the ticking clock and the reality
6 of the number of days it takes to get a claim submitted to
7 the Waste Board.

8 Based on the sentiment of the previous comment
9 about payment rates, the fact of the system is that
10 recyclers are hungry, and they're competing for covered
11 electronic waste that is eligible and well documented
12 covered electronic waste and are generally paying as
13 quickly and as much as they can to secure those supplies.

14 The next comment. We'll have a little bit more
15 discussion. It's the next two lines on the matrix. This
16 has to do with the proposed revision to require disclosure
17 of covered electronic waste disposition information by a
18 recycler to a collector. And specifically, the comment
19 was it's unreasonable to require a recycler to make
20 available to a collector upon request information
21 regarding the status of the CEWs transferred by that
22 collector to a recycler. It was also suggested separately
23 as part of this comment that such a requirement would
24 constitute such a significant -- such a revision would
25 constitute such a significant revision to the proposed

1 regulations that a new 45-day comment period was
2 warranted.

3 Well, the proposed revision actually resulted
4 surprisingly from a comment by a recycler, and it was
5 made -- the revision was made with the intent to maximum
6 openness of information within the covered electronic
7 waste recovery and recycling system. Our program has
8 maintained from the beginning that secrecy, that whether
9 it be on the source of the covered electronic waste or the
10 ultimate disposition of treatment residuals does not serve
11 the public interest of protecting public health or safety
12 or the environment or the integrity of the public funds
13 that underwrite the system.

14 It's been suggested perhaps the Waste Board staff
15 could provide this information to collectors, what
16 happened to the devices I transferred to a recycler, and
17 that having the collectors -- or rather recyclers provide
18 this information would reduce the workload on staff.
19 That's not the motivation behind this proposed revision,
20 namely because the anticipated level of inquiry about what
21 is the status of covered electronic waste is minimal. And
22 besides, the Waste Board only learned about what happened
23 to covered electronic waste through the payment claims,
24 those which are canceled and ultimately claimed.

25 The fundamental purpose of the revision was to

1 ensure that access to information associated with the
2 management of hazardous waste is maintained in the
3 interest of protecting long-term liability associated with
4 any generation, handling, and processing activities of
5 hazardous materials. In other words, it's to accommodate
6 due diligence.

7 Large generators, such as corporations, have an
8 interest in knowing when and where waste were properly
9 handled and/or treated. And large handlers, such as local
10 governments who provide services to residents, have an
11 interest in minimizing their exposure to liability by
12 maintaining access to information about what became of the
13 covered electronic wastes that were transferred into the
14 system.

15 In the end, Program believes that reduced risks
16 are also associated with reduced costs. It has been
17 argued that business arrangement can and will take care of
18 any necessary access to covered electronic waste fate
19 information. Program experience thus far, however, has
20 been that many of our participants are not as business
21 savvy as optimal, which can leave a generator or previous
22 handler in the dark.

23 The proposed regulation simply establishes the
24 access to information if needed by a system participant.
25 Program believes that a system funded by public moneys

1 should maintain as much transparency as possible.

2 We should recall that the rules of the program
3 already require a collector to provide to a recycler
4 information on the covered electronic waste source, and in
5 most cases, the name and address of the source, along with
6 the when and where of when that covered electronic waste
7 was collected. Access to reciprocal information of the
8 status of CEW handling or processing again only upon
9 request serves to maintain a balance of information within
10 the system. Simply put, a recycler needs to know whether
11 covered electronic wastes are eligible, and a collector
12 may need to know the fate of the covered electronic waste
13 for due diligence purposes.

14 Now regarding the comment period. We've been
15 confidently advised by counsel the Committee was on very
16 firm ground in directing Program to proceed with the
17 15-day opportunity. And counsel is here to further
18 discuss this later if the Committee so wishes.

19 Finally, the last comment that we received had to
20 do with the recovery payment status reporting. And
21 specifically, that Program proposed removing the
22 requirement for recyclers to report on the status of
23 recovery payments in a repayment claim is a welcomed
24 revision, and therefore no discussion is really necessary.

25 As noted at previous meetings, the program as

1 established by the Act and the original and revised
2 regulations is still in its infancy and will grow and
3 evolve over time as the Waste Board and its participants
4 gain experience in the system. Staff have every
5 expectation they will be suggesting additional
6 enhancements and alterations to the payment system
7 regulations through future rulemaking processes as the
8 markets change, as technologies for handling these waste
9 streams evolves, and as we expand our own internal
10 technical capabilities. And we will absolutely fix any
11 problems if and when they're identified.

12 With that, along with recommending that the
13 Committee do adopt the proposed revised regulations, I'd
14 be happy to answer any questions you may have.

15 CHAIRPERSON PETERSEN: Okay. Thank you.

16 Questions?

17 We have a speaker. Katherine Brandenburg,
18 please.

19 MS. BRANDENBURG: Thank you. My name is
20 Katherine Brandenburg. I'm with the Flanigan Law Firm,
21 and we represent the Institute of Scrap Recycling
22 Industries.

23 Bob, hi. We do miss you here as a stakeholder
24 too, not just staff.

25 I did just want to bring up the point of the new

1 addition that Jeff just spoke about, which is the addition
2 of Section C under 18660.215. We believe that that is
3 unnecessary to be added into the regulations at this time.
4 We believe that the recyclers and collectors have a
5 business relationship. And if at some time the collectors
6 are having issues with the recycler, they can sever the
7 relationship at that point if information is not being
8 provided.

9 So this is something we believe that the State
10 doesn't need to put into regulation, that the recycler
11 needs to also reciprocate the disposition of the
12 electronic waste. And so we would like to see that it be
13 removed. And if it's not removed, we would like to see
14 that at least it be narrowed to where there is a time
15 limit. Instead of right now it doesn't have any type of
16 time frame to when a collector can go to a recycler. It
17 could be five years into the program, and the collector is
18 now disgruntled with the recycler and say okay, I want to
19 know what happened to everything for the past five years.
20 We think there should be some sort of time frame, and we
21 were requesting 180 days.

22 CHAIRPERSON PETERSEN: Okay. Thank you.
23 Katherine, from a business side, the relationship between
24 a recycler/collector and recycler/client for purposes of
25 let's take an example like paper. And in your membership

1 when you have a recycler that's out there that wants to
2 service the client or wants that business, they're going
3 to do what the client wants. So let's say half their
4 paper needs to be destroyed, and they want a certificate
5 of destruction on that material. Well, that recycler is
6 going to provide that client that information or they're
7 not going to get the business. That's what you're saying.

8 MS. BRANDENBUR: That's what I'm saying.

9 CHAIRPERSON PETERSEN: Great. Thanks very much.
10 Are there any other questions?

11 I have issues with this as well as being from --

12 BOARD MEMBER BROWN: Gary, can we have staff
13 comment on the time frame that she requested and whether
14 they contemplated that and what your possible concerns are
15 with including some sort of a time frame for information.

16 CHAIRPERSON PETERSEN: Great.

17 SUPERVISOR HUNTS: That's a good point. We do
18 recognize that as drafted the proposed provision it
19 appears open ended. In looking at the provision in
20 context of the proposed overall reg package, any
21 participant in our system is only required to maintain
22 records for three years associated with materials that
23 flow through the system. So conceivably it could be
24 argued beyond three years information would not be
25 available to respond to a collector's request for where

1 did my material go.

2 So I guess what I'm saying, there is a time
3 frame. We only heard about the proposed 180-day
4 limitation this morning. I guess in the context of the
5 discussion today and the proposal to adopt as related to
6 this is we would like -- Program is very interested in
7 adopting the regulations now, refocusing our efforts on
8 payment claim processing, fraud investigation, not
9 dithering about a provision.

10 Program's first preference would be leave the
11 revision as proposed intact. Second preference would be
12 to remove the provision altogether and see how it goes in
13 terms of openness of information and with the hope we
14 could look at counsel for advise on this that that would
15 not require additional comment period. And the least
16 preferred option would be to adjust this provision
17 requiring additional 15-day comment period and then not
18 being able to adopt this month.

19 BOARD MEMBER BROWN: Would eliminating this
20 provision require additional comment period?

21 STAFF COUNSEL BLOCK: If you eliminated the
22 entire section which --

23 BOARD MEMBER BROWN: That's C.

24 STAFF COUNSEL BLOCK: The entire subsection,
25 which was not part of the original regulation package,

1 isn't currently on the books anywhere, that would not
2 require a 15 day. If you were to add 180-day time limit,
3 that would require --

4 BOARD MEMBER BROWN: Okay.

5 CHAIRPERSON PETERSEN: Okay. Thank you, Jeff.
6 Okay.

7 I would like to remove C from that section out of
8 the regs, if we can do that.

9 COMMITTEE MEMBER PEACE: I agree with that,
10 because I don't actually see why we need it. You
11 mentioned it's for due diligence, recycler wants to know
12 that his wastes were properly handled. I mean, to me if a
13 collector of covered electronic waste is taking their
14 stuff to an approved recycler, one that is regulated by us
15 and one that's regulated by DTSC, that should assure them
16 that the collector -- that their wastes are being properly
17 handled, I would think.

18 And I agree with Katherine it should be kind of a
19 business relationship if the recycler -- if the collector
20 asked the recycler for the information and the recycler is
21 not willing to give it to them, they can go somewhere
22 else. I don't really see why we need this either.

23 BRANCH MANAGER WILLD-WAGNER: That's also a good
24 point, Member Peace. We have been working with and
25 hearing requests from local governments who have this due

1 diligence and liability -- circle of liability under the
2 federal law, and they have shown concerns about where
3 their materials may get taken. I think with the whole SB
4 20 SB 50 process, they're able to negotiate, perhaps
5 working with their recycler and get more things added into
6 contracts. But --

7 COMMITTEE MEMBER PEACE: But we're certifying a
8 recycler, and aren't we saying that -- aren't we watching
9 to see if they're recycling stuff in the proper --

10 BRANCH MANAGER WILLD-WAGNER: There is some
11 distinction there, as you said, between us and the
12 Department of Toxic Substances Control. But to export
13 residuals from the recycling operation from these covered
14 electronic wastes, a recycler must notify DTSC that they
15 are intending to export 60 days ahead of time.

16 But of course, we don't go and follow up exactly
17 where -- we get a receipt back from the end use
18 destination, but we don't know exactly how it's done. In
19 that other country, we don't send DTSC inspectors to
20 another country too look at their systems. And I think
21 Jeff has some things to add.

22 I'll just mention that there's a lot of concern
23 on this on the national level just about having that
24 assurance and that transparency in the whole system. And
25 the federal EPA is helping starting a group sort of to

1 talk about certification of recyclers. Some of the
2 entities in our system have also looked at a voluntary
3 certification system. They've signed on to some federal
4 take-back challenge to actually sign on voluntarily the
5 recyclers saying they are handling the material in a
6 specifically managed way. But that's about as far as we
7 can go on notifying this sort of the down stream
8 recycling.

9 Jeff had some things to add.

10 SUPERVISOR HUNTS: Just that Program is -- I
11 represent staff's perspective -- could go either way. But
12 as we proposed, it was with the spirit and the intent and
13 the interest in as much openness associated with the
14 management of a hazardous waste that has additional rules
15 associated with it. It's not bottles. It's not cans.
16 It's not paper. It's a hazardous waste with extended
17 liabilities.

18 The comment -- the original suggestion that
19 resulted in this revision was brought to us by a recycler
20 who, to my understanding, was concerned about the possible
21 management of covered electronic waste by another recycler
22 in the system that perhaps was -- they were not being
23 managed in the system in alignment with the expectation of
24 contributing to collectors. We can go either way.

25 COMMITTEE MEMBER PEACE: We hear stuff like that,

1 a recycler might not be doing stuff properly, does DTSC or
2 anybody follow up on that?

3 SUPERVISOR HUNTS: We are doing what we have the
4 capability and the capacity to do at this point. Work
5 with DTSC, file a complaint. DTSC has limited staffing.
6 We have limited staffing. We're trying to grow it. We're
7 trying to be out in the field more.

8 CHAIRPERSON PETERSEN: But if this doesn't come
9 down the right way, if we take this out and let the system
10 operate like it has been doing for years, and if it has to
11 be adjusted to revisit this, we can do that; correct?

12 SUPERVISOR HUNTS: Absolutely.

13 BOARD MEMBER BROWN: Well, this provision doesn't
14 address your concerns in any way, shape, or form about a
15 lack of staffing. I mean, those issues requesting
16 documentations from a recycler doesn't at all address what
17 you last tried to indicate without being direct, saying
18 that if we have a problem with the recycler and DTSC
19 doesn't have enough staffing to go out and investigate,
20 this really doesn't address that issue.

21 SUPERVISOR HUNTS: We're mixing two different
22 things. One was whether we have an issue with the
23 recycler, and another if a participant in our system has
24 an issue with the recycler.

25 BOARD MEMBER BROWN: Doesn't that go to a

1 business relationship? If a collector has a problem with
2 a recycler, they take their business somewhere else. It
3 could be a disgruntled dispute.

4 SUPERVISOR HUNTS: I suppose in the context or
5 view of ongoing business. But you know, when the property
6 tags end up in a field in Nigeria and part of a band video
7 and, you know, things --

8 BOARD MEMBER BROWN: Then we have a problem with
9 the recycler, don't we? Because they're not filing their
10 papers.

11 SUPERVISOR HUNTS: -- a participant and their
12 long-term liability -- anybody who touches hazardous waste
13 is liable for what happens to that hazardous waste.

14 And Program was putting forward this provision,
15 this revision suggestion, with the interest if public
16 moneys are being used to underwrite this system, we should
17 encourage as much openness as possible. That it would
18 only be exercised, the option to know, only if there was a
19 need to know, that a collector had an interest. The
20 concern was raised that there could be -- it could lead to
21 harassment of a recycler.

22 I think what we're hearing, some of the things
23 we're hearing is we don't have enough experience in the
24 system to know whether this is an issue that needs fixing
25 with this. I think it could go either way. Committee's

1 pleasure that we can adopt it and see how it goes if it
2 becomes a problem or we could leave it out and see if
3 openness needs to be reinserted into the system.

4 BOARD MEMBER BROWN: I don't think it's
5 necessary. I think it would be a better -- we would be
6 better served for openness if a collector had an issue
7 with a recycler, a concern about items being left in a
8 field in Indonesia or something, that they raise the
9 concern with us and we investigate the recycler. I don't
10 know that our concerns and what you're trying to address
11 would be served by this particular provision.

12 BRANCH MANAGER WILLD-WAGNER: That is something
13 we're moving forward on both Department of Toxics and the
14 Waste Board received budget change proposal for some
15 additional positions -- not a lot, but some additional
16 provisions in this fiscal year. So we'll be developing
17 those protocols for how to work together a little bit more
18 clearly.

19 CHAIRPERSON PETERSEN: Thank you, Member Brown.

20 We have another speaker regarding this issue,
21 Mark Murray. Good morning.

22 MR. MURRAY: Hi. Thanks a lot. I'm going to
23 just pass this up. I'm Mark Murray with Californians
24 Against Waste. And I just have one item that I'd like to
25 take one more shot at.

1 And again, I want to just note that I think it's
2 very significant that over the course of the last year
3 that we've been dealing first with the adjustment of the
4 emergency regulations and then with these permanent
5 regulations that there are so few people here. I think
6 it's really testament to the hard work that your staff has
7 done -- nothing against the people that are here. I think
8 it's testament to the hard work that your staff has put in
9 to both understand the issues that came up some 18 months
10 ago with regard to the issue of California source and
11 documentation, source anonymous, and the fact that we have
12 virtually resolved all of those issues. And the fact that
13 I am maybe the lone person now remaining speaking to this
14 issue, you know, you can just take that for what it's
15 worth.

16 But I want to just take one more shot at this
17 issue of California source and the definition. And I very
18 much appreciate the evolution of this definition from your
19 staff and modifying it from consumers to persons. But I
20 still think there is excess language in that definition
21 that effectively eliminates opportunities for collectors
22 receiving payment on devices that appropriately there
23 should be a payment on those. And so what I'm proposing
24 here with the amendment that I've suggested is to not add
25 anything but simply to take out some what I think is

1 unnecessary language in this definition of California
2 sources and to basically limit California sources to
3 materials that are generated by persons in the state of
4 California. And a person is any entity, it's nonprofit,
5 it's a business. It's a person that generates it in
6 California. And what I think is then the overly
7 prescriptive sentence about what it is not, I think
8 eliminate that.

9 And again I go back to the same example of there
10 are entities that for good or ill have accumulated these
11 devices because they're a TV repair shop, because they're
12 a nonprofit or Good Will or whatever it might be, they
13 have generated these. They don't want to be in the
14 business of being a handler and they're not interested in
15 receiving any payment from the state of California. A
16 California source does not receive a recycling payment
17 from the state of California. They just generate this
18 stuff.

19 And we have absolutely appropriate regulation and
20 documentation requirements now for collectors and
21 recyclers. That's the place to focus the enforcement. If
22 a collector is going off material that's generated by
23 someone who has generated this material in California,
24 they should be able to get paid on that.

25 So I'm proposing just a very simple source

1 reduction of the language in the definition of California
2 source. And to basically make it simple, it's a device
3 that is generated by a person in the state of California,
4 period.

5 COMMITTEE MEMBER WIGGINS: I have a question.

6 When did you provide this to staff?

7 MR. MURRAY: Seconds ago.

8 COMMITTEE MEMBER WIGGINS: Let me ask you, our
9 staff here. How long has this been open for comment?
10 Six months?

11 SUPERVISOR HUNTS: Well, it's closed for comment.
12 Mark is bringing this forward to the Committee for the
13 purposes of discussion.

14 COMMITTEE MEMBER PEACE: Mark has brought this up
15 before. He's brought this up numerous times.

16 MR. MURRAY: I think it's safe to say I've been
17 fairly consistent in raising this issue over the course of
18 over a year.

19 COMMITTEE MEMBER WIGGINS: I can't hear people
20 speaking over each other.

21 CHAIRPERSON PETERSEN: Go ahead, Mark.

22 MR. MURRAY: Mr. Chairman, to the Committee, this
23 is an issue that I have been bringing to this Committee
24 and to the Board consistently for over a year now. And
25 again there's been excellent movement on the part of staff

1 towards modifying this definition. And I'm just
2 reiterating a point that I've raised now in the emergency
3 regulations and in my initial comments on the permanent
4 regulations about the definition of source reduction. In
5 fact, I think this is actually consistent with the
6 proposed language that I suggested in the permanent
7 regulations. Again, I want to acknowledge that the staff
8 has come very far in addressing the concerns I've raised,
9 and I'm asking for one little source reduction.

10 COMMITTEE MEMBER PEACE: When I was reading
11 through this, I had the same question that Mark keeps
12 bringing up, why do we need that? Why can't we just cut
13 it off where he says to cut it off? Can you explain to me
14 why we need that?

15 SUPERVISOR HUNTS: Because with every payment
16 claim we receive, we have to re-educate the system that,
17 no, simply because you have covered electronic waste in
18 the state of California does not make you the source, does
19 not mean that those devices are eligible. The additional
20 wording in the definition of California source is
21 informative. It's instructional. It's not limiting
22 whatsoever. It's to clarify the difference between a
23 person who uses a device and then discards it and thus
24 creates a covered electronic waste and an entity that
25 handles covered electronic waste.

1 COMMITTEE MEMBER PEACE: What kind of problems do
2 you see if we took this out?

3 SUPERVISOR HUNTS: Aside from losing another
4 month and losing clarity about what a California source is
5 and is not --

6 COMMITTEE MEMBER PEACE: So a television repair
7 shop or Good Will that has these things, is there a way
8 for that to get into the system now?

9 SUPERVISOR HUNTS: Do they know where the
10 material came from?

11 COMMITTEE MEMBER PEACE: I would think a
12 television repair shop would know where it came from.

13 SUPERVISOR HUNTS: Then they should be able to
14 provide us with source information.

15 What continues to confuse staff about the
16 persistence on this matter is that if the material is
17 eligible, then the source information as defined should be
18 available. And if it is not, then there are provisions to
19 bring source anonymous material into the system.

20 At this point, you know, based on fiduciary
21 responsibility, interpretation of the intent of the Act in
22 the first place, we do not have the ability to divine
23 whether or not the truckload of undocumented material
24 that, trust me, it should be eligible really is California
25 material.

1 BRANCH MANAGER WILLD-WAGNER: I think it sounds
2 like you might be asking for an example of when this might
3 be a problem. And Jeff just alluded to it a little bit.

4 But a truckload coming from another state or a
5 truckload of ineligible material that appears and is then
6 handled or consolidated perhaps by an entity such as a
7 Good Will or TV repair shop or nonprofit organization in a
8 warehouse storing this material in a warehouse, there's no
9 way we can know whether it was accumulated before the
10 beginning of the Act. And the Act does say we're only
11 supposed to pay on devices that were generated after
12 January 1st, 2005, and there's no way of knowing what
13 source it came from.

14 So there's plenty of opportunities for the TV
15 repair shop to bring those devices into the system with
16 the documentation or for the Good Will if they're source
17 anonymous, late-night drop off, illegal disposal, to bring
18 those into the system. But we don't have a provision for
19 those who may have warehouses of material that have been
20 stored there from we don't know where they came from and
21 we don't know when they came into the state.

22 So those are the different scenarios of what our
23 definition proposes what is in and what is out.

24 MR. MURRAY: Mr. Chairman, I completely agree
25 with the scenario where someone is trying to profit off

1 the program by bringing a truckload of devices from out of
2 the state into the state that we shouldn't be making
3 payments. But the place to regulate that is not the
4 definition of California source. The place to regulate
5 that is the requirements on recyclers and collectors.

6 If I'm walking from my house along the Putah
7 Creek and there is a television that's been dumped into
8 the creek, I want to take that television and take it to
9 the e-waste collection event. I didn't generate that,
10 meaning I didn't consume that. I never used that device.
11 But I've picked up this old TV, this littered old TV, and
12 I want to make sure that I can drop it off at the
13 collection event, and I want that collection event to be
14 eligible to get the payment.

15 The Act talks about the intent of the Act is that
16 you -- the language, 100 percent of the covered electronic
17 devices discarded or offered recycling in the state be
18 eligible under this program. Usually, it's the
19 percentage, 100 percent.

20 Certainly, I think that when we're talking -- I
21 agree that we need to have safeguards, and I believe we
22 have the safeguards in the regulations in the statute to
23 prevent the payment and profiteering off of this program.
24 But the definition of source reduction is not the place to
25 do that. It's the documentation requirements for the

1 recyclers and the collectors on the program. That's the
2 place to do it. So I think substantially we're agreed.

3 I'm suggesting there are ways that devices get
4 generated, individual devices. You know, I've moved into
5 a new house and there in the back of the house I find
6 someone has -- in a closet somewhere somebody has left an
7 old TV, an old computer. We want to encourage people to
8 bring those devices into the system and get those
9 recycled. We want to actually motivate collectors and
10 recyclers to try to extract those devices so they don't
11 get dumped on the side of the road. And I think this
12 definition is -- overly prescriptive definition of source
13 reduction inhibits that. If we need to have guidelines --
14 additional guidelines in the documentation requirements
15 for recyclers and collectors, then that's the place to
16 create this kind of fail safe.

17 CHAIRPERSON PETERSEN: Okay. Thank you, Mark.

18 Now I have a question, Jeff. Again, when we're
19 taking a look at this, we're still in the growing pains of
20 this whole thing; correct?

21 SUPERVISOR HUNTS: Yeah.

22 CHAIRPERSON PETERSEN: Can you give me a little
23 bit more information on what Mark just said, give me your
24 side of this thing again?

25 SUPERVISOR HUNTS: Well, if we're engaging in

1 ridiculous extremes of logic, if Mark is walking along
2 Putah Creek and sees a truckload of devices spilled in the
3 creek, is he going to back his car up there and load them
4 up and bring them into the recycling center because it's
5 the right thing to do?

6 We know what the right thing to do is. And there
7 are entities who should be engaging in the right thing.
8 Nobody should be littering, and local government needs to
9 step up and address illegal dumping. The system as
10 constructed and as currently regulated provides for just
11 the scenario that Mr. Murray suggests by allowing
12 illegally disposed covered electronic waste to come into
13 the system.

14 The definition as proposed, while perhaps not
15 eloquent, it is exacting. It does not overregulate. It
16 is clear in who is the source of the material. A handler
17 is not source. A handler is a handler. It's an
18 intermediary. Someone who without additional prescriptive
19 regulation about the quantities that are handled, how long
20 they handled it, from who they receive it, this is very
21 straight forward. And it feeds into just the additional
22 limitations and applicability Mark is suggesting of what
23 is eligible in the system and what needs to be documented
24 in the system in order to determine eligibility for
25 payment.

1 BOARD MEMBER DANZINGER: Can I ask --

2 CHAIRPERSON PETERSEN: Jump right in.

3 BOARD MEMBER DANZINGER: A scenario that's maybe
4 a little bit less outrageous than Marks, if that's what we
5 want to call it. It let's say a school or Boy Scout Troop
6 is going to do a clean-up day at a beach or river, and one
7 of the upsides they want to identify for that is to be
8 able to make a little money for their organization, you
9 know, whether it's redemption on the bottles or, you know,
10 if they're particularly well informed, they think maybe
11 they can collect a fee for, you know, CEWs that they find.
12 The way it's written now, would that prevent them from
13 being able to collect them?

14 SUPERVISOR HUNTS: I would say not well informed,
15 they're misguided. If the Boy Scout Troop is thinking of
16 making money --

17 BOARD MEMBER DANZINGER: I'm not saying that's
18 primarily why they're doing it. But I'm saying if they're
19 going to clean it up, they wouldn't be able to collect on
20 those items that they may take responsibility and return
21 them somewhere?

22 SUPERVISOR HUNTS: The local government who's
23 responsible for the land upon which a hazardous waste has
24 been illegally disposed, discarded, is responsible for
25 that cleanup. And if they want to work with that Boy

1 Scout Troop to ensure that that material is cleaned up,
2 then that's great. I think we expose the system, the
3 payment system as a whole and the universal waste
4 management to vulnerabilities if we start going down the
5 road of the Boy Scouts, the Girl Scouts.

6 BOARD MEMBER DANZINGER: That's a good point. I
7 know this is peripheral. It's not heart of the matter.
8 It's not the meat of the program.

9 I guess what I'm saying is unless you can show a
10 dangerous residual or unintended impact from going down
11 this particular road, encouraging everyone to
12 responsibly -- to be responsible, it's a good thing.

13 So we had this discussion on source reduction,
14 you know, that why can't we go further on source
15 reduction. I agreed with the points that were made,
16 because there was a down side, you know, there was another
17 side to it and how it would effect this particular
18 program.

19 So I've been trying to follow the dialogue here
20 the last 15 minutes, and I'm probably just a little slow
21 on the uptake. Have we actually identified a down side?
22 Is there a danger in the management or the implementation
23 of this program by having this kind of thing not in there?
24 That may not be a big piece of the whole program, but it
25 is, you know, the type of thing that obviously we would

1 like to have associated with as many programs as we manage
2 around here.

3 SUPERVISORY HUNTS: I believe the down side is
4 lack of clarity and needless extension of time before we
5 can adopt these regulations. Time that the actual
6 participants in our system would likely see better spent
7 processing payment claims and in enforcing fraud.

8 BOARD MEMBER DANZINGER: Okay. Thanks.

9 CHAIRPERSON PETERSEN: Okay. Any other
10 questions?

11 COMMITTEE MEMBER PEACE: A question on the 60/90
12 day thing. Do we pay interest because we've been behind?
13 Do we pay interest to the recyclers?

14 SUPERVISOR HUNTS: No.

15 COMMITTEE MEMBER PEACE: So there's not a state
16 law --

17 SUPERVISOR HUNTS: The Prompt Payment Act does
18 not apply to this program. Prompt Payment Act as I
19 understand it applies to invoices, and these are claims
20 that have to be verified.

21 CHAIRPERSON PETERSEN: So I'd like to move this
22 thing along if we can.

23 COMMITTEE MEMBER PEACE: Can we ask Elliot how
24 we -- is this still Option 1 since we still want them to
25 go out, but we want them to delete that --

1 CHAIRPERSON PETERSEN: Item C.

2 COMMITTEE MEMBER PEACE: The one requirement
3 approved collectors to provide --

4 CHAIRPERSON PETERSEN: 16880.21 Number C --
5 (B)(5)(C), I'm sorry.

6 STAFF COUNSEL BLOCK: Yes. This would still fall
7 under Option 1. Still just make it part of the motion to
8 adopt the regs with that one deletion of the subsection.
9 And if the Committee so desires, you could actually put
10 this on consent as revised that way.

11 CHAIRPERSON PETERSEN: Do we have a motion?

12 COMMITTEE MEMBER WIGGINS: I move adoption of
13 Resolution 2006-127 eliminating out of the regulations
14 18660.21(B)(5)(C).

15 CHAIRPERSON PETERSEN: That's 16881.

16 BRANCH MANAGER WILLD-WAGNER: No. It's 18660.21.
17 Member Wiggins is correct.

18 CHAIRPERSON PETERSEN: You're right. I'm
19 dyslexic, besides having ADD. So that's the motion.

20 COMMITTEE MEMBER PEACE: Is that okay?

21 STAFF COUNSEL BLOCK: That would work.

22 COMMITTEE MEMBER PEACE: Okay. Second.

23 CHAIRPERSON PETERSEN: Deb, call the roll.

24 EXECUTIVE ASSISTANT BALLUCH: Peace?

25 COMMITTEE MEMBER PEACE: Aye.

1 EXECUTIVE ASSISTANT BALLUCH: Wiggins?

2 COMMITTEE MEMBER WIGGINS: Aye.

3 EXECUTIVE ASSISTANT BALLUCH: Petersen?

4 CHAIRPERSON PETERSEN: Aye.

5 And I'd like to move this on to consent for the

6 Board.

7 Thank you, everybody. And we're adjourned.

8 Oh, we're going into closed session after this.

9 STAFF COUNSEL BLOCK: Mr. Chair, closed session
10 to discuss litigation.

11 CHAIRPERSON PETERSEN: Thank you, everybody.

12 (Thereupon the California Integrated Waste
13 Management Board, Board of Administration
14 Permitting and Enforcement Committee
15 recessed into closed session at 12:03 p.m.)

16 (Thereupon the California Integrated Waste
17 Management Board, Board of Administration
18 Permitting and Enforcement Committee
19 adjourned at 1:15 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 21st day of July, 2006.

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